

City of Prior Lake, Minnesota

Business Subsidies Policy

Adopted:
Economic Development Authority
Prior Lake City Council

DATE: October 18, 2004

Amended:

City of Prior Lake
16200 Eagle Creek Avenue S.E.
Prior Lake, MN 55372
(952) 447-4230

CITY OF PRIOR LAKE POLICY AND PROCEDURES RELATING TO THE USE OF BUSINESS SUBSIDIES

I. PURPOSE

For the purposes of this document, the term “City” shall include the Prior Lake City Council and Economic Development Authority.

The purpose of this policy is to establish guidelines and criteria regarding the use of business subsidies, such as tax increment financing (TIF), tax abatement, and other business subsidies for private development projects within the City of Prior Lake and shall be in addition to the requirements and limitations set forth by provisions of Minnesota State Statute 116J.993 (MN Business Subsidy Law), and by the City’s policy and guidelines of the particular form of subsidy.

These guidelines shall be used in processing and reviewing applications requesting business subsidies assistance. The fundamental purpose of business subsidies in the City is to encourage desirable development or redevelopment that would not otherwise occur “but for” the assistance provided through business subsidies.

It is the intent of the City to provide business subsidies, as well as other incentives that the City may deem appropriate, at the shortest term required for the project to proceed. The City reserves the right to approve or reject projects on a case-by-case basis, taking into account established policies, specific project criteria, and demand on city services in relation to the potential benefits to be received from a proposed project. Meeting policy guidelines or other criteria does not guarantee the award of business subsidies. Furthermore, the approval or denial of one project is not intended to set precedent for approval or denial of another project.

Whenever possible it is the City’s intent to coordinate the use of business subsidies with other applicable taxing jurisdictions.

II. DEFINITION OF “BUSINESS SUBSIDY”

The following types of assistance having a value in excess of \$25,000 are defined as a “business subsidy” within the MN Business Subsidy Law:

- State and local government agency grants;
- Contributions of personal property, real property, or infrastructure;
- The principal amount of a loan that exceeds \$75,000 at rates below those commercially available;
- Reductions or deferrals of taxes or fees;
- Guarantees of any payment under any loan, lease, or other obligation; and,
- Preferential use of government facilities.

III. PUBLIC PURPOSE OBJECTIVES OF BUSINESS SUBSIDIES

In accordance with the MN Business Subsidy Law, the City will consider using business subsidies to assist private development projects to achieve one or more of the following public purpose objectives:

- To retain local jobs and/or increase the number and diversity of jobs that offer stable employment and/or attractive wages and benefits.
- To enhance and diversify the City of Prior Lake's tax base.
- To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development.
- To achieve development on sites which would not be developed without business subsidies assistance.
- To remove blight and/or encourage development of commercial and industrial areas in the city that result in higher quality development or redevelopment and private investment.
- To offset increased costs of development of specific properties when the unique physical characteristics of the site may otherwise preclude private investment.

IV. GENERAL POLICIES FOR THE USE OF BUSINESS SUBSIDIES

- A. Business subsidy assistance will be provided from the City, by a "pay-as-you-go" method, to the developer if the business subsidy is tax increment financing or tax abatement. Requests for up front financing will be considered on a case-by-case basis, but are to be considered the exception rather than the rule.
- B. A developer requesting business subsidy assistance must demonstrate, to the satisfaction of the City, sufficient cash equity investment in the project as required within the City's policy for the particular form of subsidy.
- C. Business subsidy will not be provided in circumstances where land and /or property price is demonstrated by the County Assessor to be in excess of fair market value. This would normally be where the acquisition price is more than 10% in excess of market value, but the City has the right to use discretion in determining value and the overall project impacts/benefits will be considered..
- D. A developer must be able to demonstrate to the City, or, if applicable, to the underwriting authority, a market-demand for a proposed project. Such market demand demonstration can consist of market studies supporting the development proposal, pre-leasing or leasing commitments for at least 50% of the proposed project, other forms of research/study that documents the need, or other evidence that may be acceptable to the City.
- E. Business subsidy will not be used in cases where the subsidy would create an unfair and significant competitive financial advantage over other similar projects in the area.

- F. Business subsidy will not be used for projects that would place extraordinary demands on city infrastructure and services.
- G. If requested by the City, the developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to: assessment agreements, letters of credit, cash escrows, and personal guaranties.
- H. Each developer must be able to demonstrate to the City's satisfaction, an ability to construct, operate, and maintain the proposed project based on past experience, general reputation, and credit history.
- I. If requested by the City, or its consultants, the developer shall provide sufficient financial, environmental, or other data relative to the successful operation of the project.
- J. Projects receiving business subsidy approval from other affected taxing jurisdictions will be more favorably received by the City.

V. GUIDELINES FOR COMMERCIAL/INDUSTRIAL BUSINESS SUBSIDIES

- A. Business subsidies will not be used for on-site retail or service businesses unless it is a redevelopment project that demonstrates that it will result in a substantial increase in tax base and a significant improvement in quality development, a reduction of blight, and/or an increase in employment.
- B. The project must be consistent with the City's Comprehensive Plan, Land Use Plan, and Zoning Ordinances. If the project is not consistent at the time of application for Business Subsidy, the applicant must first obtain approval from the City of any required zoning or comprehensive plan amendments, changes, variances, etc. If the developer is successful in gaining approvals, then the developer may be eligible to receive a business subsidy from the city.
- C. The project must result in the retention of existing jobs that would be lost "but for" the proposed development or result an increase and diversification in local jobs. Business retention jobs will be considered on a one-for-one match to job creation only in cases where job loss is specific and demonstrable in accordance with the MN Business Subsidy Law.
- D. Specific wage and job goals will be determined by the City giving consideration to the particular form of the subsidy, nature of the development, the purpose of the subsidy, local economic conditions and similar factors. The recipient will have up to two years to meet the job and wage goals established by the City. The minimum wage for a job to be considered a new or retained job shall be \$9.00 per hour exclusive of benefits. Deviations less than the wage floor will be considered on a

case-by-case basis and in accordance with the requirements of the MN Business Subsidy Law.

- E. Business subsidies will not be used for commercial/industrial projects that have a history of inconsistent compliance with applicable environmental rules and regulations.

VI. SUBSIDY AGREEMENT AND REPORTING REQUIREMENTS

Each company receiving a business subsidy shall be subject to a business subsidy agreement with the City as well as the State of Minnesota and reporting provisions and requirements set forth by the MN Business Subsidy Law and summarized below:

A. Progress Reports

The recipient shall file a report annually for two years after the receiving the subsidy or until all goals set forth in the subsidy agreement have been met, which ever is later. Reports shall be completed using the format drafted by the State of Minnesota and shall be filed with the City no later than March 1 of each year for the progress made the previous year.

B. Maintain Facility

The recipient agrees to maintain and operate its facility at the site where the subsidy is used for a period of five years after the date the subsidy is provided.

C. Failure to Comply

Businesses failing to comply with the subsidy agreement will be subject to fines, repayment requirements, and be deemed ineligible by the State to receive any loans or grants from public entities for a period of five years.

VII. SUBSIDY APPLICATION PROCESS AND PROCEDURE

- A. Application for business subsidies shall be made on forms for the particular form of assistance provided by the City. A fee of \$2,500.00 shall accompany any Tax Abatement, or grant request to cover the City's legal, administrative, and planning costs. The fee for Tax Increment Finance subsidy shall be \$12,000. If additional amounts are required to reimburse the city for its costs, the applicant shall be responsible for those costs. If there is an unused portion of the \$12,000 fee, the City will reimburse the applicant for any unused costs at its discretion. The City reserves the right to amend its TIF fees annually as part of the official Fee Schedule.

Following a review by appropriate City Staff, the application shall be referred to the either the Economic Development Authority or City Council for further action.

- B. The application for business subsidies shall request information required within the City's policies on the particular form of subsidy including but not limited to; a

detailed description of the project; a preliminary site plan; the amount of business subsidy requested; the public purpose of the project; the number and types of jobs to be created; the wages and benefits to be paid new employees; and verifiable funding sources and uses.

**NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF A BUSINESS
SUBSIDY POLICY FOR THE CITY OF PRIOR LAKE/PRIOR LAKE EDA**

You are hereby notified that the City of Prior Lake City Council/Prior Lake EDA will hold a public hearing at Prior Lake Fire Station #1, located at 16776 Fish Point Road SE, on **Monday, October 18, 2004, at 7:00 p.m. or as soon thereafter as possible** to consider the following:

The purpose of the hearing is to consider the adoption of a Business Subsidy Policy for the City of Prior Lake. The City Council and the Prior Lake EDA would use the new policy as a guide for making business subsidies. Business subsidies are a state or local governmental agency (such as a city) grant contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation or any preferential use of governmental facilities given to a business. The Minnesota State Legislature enacted in the 1999 legislative session the Business Subsidy Act, in Minnesota Statutes, Section 116J.993-.995.

If you wish to be heard in reference to this item, you should attend the public hearing. **The City Council has heard and reviewed this matter at their August 16, 2004 public hearing, and referred action on to the Prior Lake EDA meeting of October 18, 2004.** Copies of the draft Business Subsidy Policy are available at City Hall for public review and will soon be available on the City web site, which is www.cityofpriorlake.com.

The City Council will consider oral and written comments. If you have questions regarding this matter, please contact the Prior Lake Community Development Director at (952) 447-9805 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

Prepared this 5th day of October, 2004 by:

John Sullivan, Community Development Director
City of Prior Lake

To be published in the Prior Lake American on October 9, 2004.

**CITY OF PRIOR LAKE
ECONOMIC DEVELOPMENT AUTHORITY
TAX INCREMENT FINANCING POLICY**

**ADOPTED BY THE CITY COUNCIL APRIL 16, 2001
AMENDED BY THE COUNCIL ON OCTOBER 18, 2004**

PURPOSE

This policy is established to outline the City's position on the use of tax increment financing (TIF) policy for private development. This policy will be used as a guide in processing and reviewing applications for tax increment financing assistance. In accordance with the TIF policy, TIF requests must comply with applicable state statutes. The City of Prior Lake is governed by the limitations established in Minnesota Statutes Chapter 469.174, the Minnesota Tax Increment Financing Act, for all districts created after August 1, 1979.

PROGRAM GOALS

This program exists to achieve the following goals:

- To promote commercial, industrial and residential development under special circumstances that would otherwise not occur.
- 2. To increase and diversify the long-term tax base of the City in order to ensure the ability of the City to provide adequate services for its residents while lessening reliance on the residential property tax.
- 3. To improve the City's economic vitality through the creation and expansion of employment opportunities.
- 4. To remove blight and encourage redevelopment in the commercial and industrial areas of the City in order to encourage high levels of property maintenance and private reinvestment in those areas.
- 5. To assure that projects are constructed and maintained at a level of quality consistent with the goals of the City of Prior Lake.
- 6. To retain local jobs, increase the local job base and provide economic diversity in that job base.
- 7. To assist in achieving other goals contained in adopted public policies as may be adopted by the City Council from time to time, including without limitation, quality design and construction, energy conservation and reductions in the capital and operating costs of government.
- 8. To provide high density housing as part of a mixed use development which includes retail and office uses, in select areas in the C-3 zoning district and other areas as may be deemed appropriate by the City Council.

9. To provide TIF assistance, consistent with the TIF Policy, Business Subsidy Policy, Comprehensive Plan and Zoning Ordinance of the City, to eligible companies planning to build TIF eligible businesses in the Deerfield Industrial Park and other areas zoned Industrial.

PROGRAM ELIGIBILITY CRITERIA

Qualified projects should meet or exceed the following criteria to be eligible for TIF assistance. Meeting the threshold of eligibility does not guarantee approval of the project by the City. Conversely, failure to meet the criteria will not automatically exclude a proposal from further consideration. Final approval of any project will be made by the City Council.

The project must be consistent with the City's Comprehensive Plan, zoning ordinance and other applicable City ordinances as well as applicable state statutes

1. The project shall meet at least one of the Program Goals listed above.
2. The applicant must be willing to enter into a development or redevelopment agreement satisfactory to the City.
3. It must be demonstrated that the project would not be financially feasible but for the public assistance to be provided. The level of TIF financing shall be reduced to the lowest possible level.
4. The project must comply with all applicable environmental regulations.
5. The applicant must submit all of the materials required in the application.
6. The applicant must agree to provide surety to the City to cover all costs paid by the increment, unless the project is a "pay as you go" agreement. These may include assessment agreements, letters of credit, personal deficiency guarantees, guaranteed maximum cost contracts and minimum payment agreements.
7. The applicant/developer must provide a minimum of 10% equity in the project.
8. The City Council will favor owner-occupied projects over projects that will be leased.
9. For projects in an Economic Development District, a maximum of **\$50,000** of public money will be invested for each full-time equivalent position created or retained.
10. For projects in Redevelopment Districts, those that remove or prevent blight will be favored.
11. For projects in Redevelopment Districts, a ratio of taxes paid before and after redevelopment of 1:2 is desired.
12. TIF will not be used in projects that would give a significant competitive financial advantage over similar projects in the area, **unless there are special circumstances that warrant the investment of TIF dollars for the project, such as a substantial increase in high quality jobs, a competitive business may be known to be exiting the area, a local competitive business may have announced it is quitting business, the other competitive business provides evidence that it is amenable to the competitor, etc. Developers will provide information to the City to demonstrate that this criterion is met.** The developer should be able to provide market data, letters of intent or financial statements that illustrate the market potential or demand for the project.
13. **In order to be eligible to receive TIF benefits exceeding \$25,000, the applicant must sign a Business Subsidy Agreement with the City/EDA.**

14. **For an applicant to receive TIF assistance from the City, it must demonstrate that it will create a majority of jobs (at least 60% of new employees) to be classified as those that pay at least \$9.00 per hour or higher exclusive of benefits.**

The applicant for assistance must complete an Application for TIF Assistance pursuant to the procedures outlined in the Application.

PROJECT COSTS ELIGIBLE FOR TIF ASSISTANCE

Project costs that qualify for TIF assistance include the following:

- Property acquisition
- Land clearance
- Relocation and demolition of structures
- Site preparation
- Soils correction
- Removal of hazardous wastes or remediation of site contamination
- Installation of utilities
- Construction of public or private improvements
- Administrative costs directly related to the identified parcels.
- Design fees
- Surveys
- Environmental studies
- Relocation of building occupants
- Rehabilitation of structures
- Special assessments
- Other costs allowed by Minnesota Statutes